

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

ANTOINE TOFFA.

Plaintiff,

Case No.:

V.

COMPLAINT

JOHN DOE,

Defendant.

COMPLAINT

FOR HIS COMPLAINT in this matter, Plaintiff ANTOINE TOFFA, by and through his attorneys REVISION LEGAL, PLLC and RANALLO LAW OFFICE, states as follows:

INTRODUCTION

1. This is a domain theft case regarding Defendant's actions to unlawfully obtain possession and control over Plaintiff's <opinions.com>, <brands.com>, <companies.com>, and <polls.com> domain names (collectively referred to as the "Domain Names").

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff is an individual residing in the State of Colorado.
3. Defendant's identity is currently unknown.
4. After obtaining unlawful access to Plaintiff's registrar account, Defendant transferred the Domain Names to eNom, Inc. ("eNom"), a domain name registrar located within this

1 judicial district.

2

3 5. By transferring the Domain Names to eNom, Defendant agreed to eNom's terms of

4 service, attached as Exhibit 1, which includes the following provision regarding personal

jurisdiction:

5 Except as otherwise set forth in the UDRP, URS, or any similar
6 ccTLD policy, with respect to any dispute over a domain name
7 registration, this Agreement, your rights and obligations and all
8 actions contemplated by this Agreement shall be governed by the
9 laws of the United States of America and the State of Washington,
as if the Agreement was a contract wholly entered into and wholly
performed within the State of Washington.

10 [F]or the adjudication of third party disputes (i.e. disputes between
11 you and another part, not [eNom]) concerning or arising from use
12 of domain names registered hereunder, you shall submit without
objection, without prejudice to other potentially applicable
jurisdictions, to the subject matter and personal jurisdiction of the
courts (i) of the domicile of the registrant as it appears in the public
WHOIS record for the domain name(s) in controversy, and (ii)
where [eNom is] located, currently those State or Federal courts
where geographic districts include Bellevue, Washington.

16 6. As a result, Defendant has consented to personal jurisdiction in this Court.

17 7. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C.
18 § 1331 based upon Defendant's violations of the Computer Fraud and Abuse Act, 18
U.S.C. § 1030 *et seq* and 18 U.S.C. §§ 2201 and 2202 based upon the actual controversy
21 between the parties and Plaintiff's request for declaratory judgment.

22 8. This Court has supplemental jurisdiction over the related state law claims in this
Complaint pursuant to 28 U.S.C. § 1337(a) because the state law claims are so related to
24 the federal claims that they form part of the same case or controversy and derive from a
25 common nucleus of operative facts.

27 9. Venue is proper in this district because a substantial part of the property that is the subject
28

1 of this action is located in this jurisdiction because the Domain Name is held at a registrar
2 located in this jurisdiction. 28 U.S.C. § 1391.

3 **PLAINTIFF'S OWNERSHIP OF THE DOMAIN NAMES**

4 10. Plaintiff has owned the Domain Names for at least 17 years and is the rightful owner.

5 **Exhibit 2**, Toffa Declaration.

6 11. Plaintiff maintained the Domain Names at Network Solutions, LLC ("Network
7 Solutions"), a registrar located in Florida.

8 12. Plaintiff has provided the following evidence of his ownership of the Domain Names:

9 a. As to <opinions.com>:

10 i. WHOIS Record dated 11-29-2000, being the earliest available WHOIS
11 record showing Plaintiff as the registrant (**Exhibit 3A**);

12 ii. Representative WHOIS Records evidencing Plaintiff's ownership from
13 2003 to 2016 (**Exhibit 3B**); and,

14 iii. WHOIS Record dated 5-29-2017, being the latest pre-theft WHOIS record
15 showing Plaintiff as the Registrant (**Exhibit 3C**).

16 b. As to <brands.com>:

17 i. WHOIS Record dated 11-29-2000, being the earliest available WHOIS
18 record showing Plaintiff as the registrant (**Exhibit 4A**);

19 ii. Representative WHOIS Records evidencing Plaintiff's ownership from
20 2003 to 2016 (**Exhibit 4B**); and,

21 iii. WHOIS Record dated 8-26-2017, being the latest pre-theft WHOIS record
22 showing Plaintiff as the Registrant (**Exhibit 4C**).

23 c. As to <companies.com>:

- 1 i. WHOIS Record dated 11-29-2000, being the earliest available WHOIS
2 record showing Plaintiff as the registrant (**Exhibit 5A**);
3 ii. Representative WHOIS Records evidencing Plaintiff's ownership from
4 2002 to 2016 (**Exhibit 5B**); and,
5 iii. WHOIS Record dated 8-28-2017, being the latest pre-theft WHOIS record
6 showing Plaintiff as the Registrant (**Exhibit 5C**).
7
- 8 d. As to <polls.com>:
9 i. WHOIS Record dated 11-29-2000, being the earliest available WHOIS
10 record showing Plaintiff as the registrant (**Exhibit 6A**);
11 ii. Representative WHOIS Records evidencing Plaintiff's ownership from
12 2003 to 2016 (**Exhibit 6B**); and,
13 iii. WHOIS Record dated 8-17-2017, being the latest pre-theft WHOIS record
14 showing Plaintiff as the Registrant (**Exhibit 6C**).
15

16 13. Plaintiff used his atoffa@comcast.net email address as the registrant, administrative, and
17 technical contact for his Domain Names. **Exhibit 2**, Toffa Declaration.

19 **DEFENDANT'S THEFT OF PLAINTIFF'S DOMAIN NAMES**

20 14. On or about August 30, 2017, Defendant obtained unauthorized access to the
21 atoffa@comcast.net email address and used access to that account to access Plaintiff's
22 Network Solutions registrar account.
23
24 15. With unlawful access to Plaintiff's Network Solutions registrar account, Defendant
25 transferred the Domain Names from Network Solutions to eNom, and asserted full and
26 total control and possession over the Domain Names.
27
28 16. Plaintiff has provided the following evidence of Defendant's theft of the Domain Names:

- 1 a. As to <opinions.com>:
 - 2 i. WHOIS Record dated 8-31-2017, being the earliest post-theft WHOIS
 - 3 record showing a new registrant using a privacy proxy service to hide his
 - 4 personal information (**Exhibit 3D**); and,
 - 5 ii. WHOIS Record dated 10-08-2017, being the most recent post-theft
 - 6 WHOIS record showing a new registrant using a privacy proxy service to
 - 7 hide his personal information (**Exhibit 3E**).
- 8 b. As to <brands.com>:
 - 9 i. WHOIS Record dated 8-31-2017, being the earliest post-theft WHOIS
 - 10 record showing a new registrant using a privacy proxy service to hide his
 - 11 personal information (**Exhibit 4D**); and,
 - 12 ii. WHOIS Record dated 10-16-2017, being the most recent post-theft
 - 13 WHOIS record showing a new registrant using a privacy proxy service to
 - 14 hide his personal information (**Exhibit 4E**).
- 15 c. As to <companies.com>:
 - 16 i. WHOIS Record dated 8-31-2017, being the earliest post-theft WHOIS
 - 17 record showing a new registrant using a privacy proxy service to hide his
 - 18 personal information (**Exhibit 5D**); and,
 - 19 ii. WHOIS Record dated 9-28-2017, being the most recent post-theft WHOIS
 - 20 record showing a new registrant using a privacy proxy service to hide his
 - 21 personal information (**Exhibit 5E**).
- 22 d. As to <polls.com>:
 - 23 i. WHOIS Record dated 8-31-2017, being the earliest post-theft WHOIS

1 record showing a new registrant using a privacy proxy service to hide his
2 personal information (**Exhibit 6D**); and,

3 ii. WHOIS Record dated 10-16-2017, being the most recent post-theft
4 WHOIS record showing a new registrant using a privacy proxy service to
5 hide his personal information (**Exhibit 6E**).

6
7 17. To date, Plaintiff does not have ownership or control over the Domain Names.

8 18. As a conservative estimate, the Domain Names are valued at over \$2,000,000.

9 **DEFENDANT'S CONTACT INFORMATION**

10 19. Defendant is using a WHOIS GUARD INC., a privacy protection service based in
11 Panama, to hide his personal details in the public WHOIS record. Currently, Defendant is
12 using the following email addresses as the registrant email address for the respective
13 domain names:

14 a. As to <opinions.com>:

15 25CFDF4732B641C8AA2DB12F2813E735.PROTECT@WHOISGUARD.COM
16
17 (**Exhibit 3E**);

18 b. As to <brands.com>:

19 A3B7AB1CDB6747608C92894CF8859B3B.PROTECT@WHOISGUARD.CO
20
21 M (**Exhibit 4E**);

22 c. As to <companies.com>:

23 6C86F6E864F64D9A8363A78D1FEE7937.PROTECT@WHOISGUARD.COM
24
25 (**Exhibit 5E**); and,

26 d. As to <polls.com>:

27 F606B2737A9B442795EB4A87C97543A3.PROTECT@WHOISGUARD.COM
28

(Exhibit 6E);

20. At this time, Plaintiff has no other information or knowledge as to Defendant's physical location.

CLAIMS FOR RELIEF

COUNT I – VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT

21. Plaintiff restates all prior paragraphs as if fully restated herein.
22. Defendant accessed a protected computer - being Plaintiff's email account and Network Solutions registrar account - knowingly and with an intent to defraud.
23. Defendant accessed Plaintiff's email account and Network Solutions registrar account without Plaintiff's authorization.
24. Defendant's accessing of Plaintiff's email account and Network Solutions registrar account was in furtherance of Defendant's intended fraud; namely, Defendant's theft of the Domain Names.
25. Through the unauthorized access to Plaintiff's email account and Network Solutions registrar account, Defendant obtained possession and control of the Domain Names.
26. Defendant's actions have caused Plaintiff losses aggregating of at least \$2,000,000.
27. As a result of Defendant's knowing, willful, and fraudulent actions, Plaintiff has suffered economic damages and losses.
28. Defendant has violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.

COUNT II – CONVERSION

29. Plaintiff restates all prior paragraphs as if fully restated herein.
30. Defendant, without authorization, obtained access to Plaintiff's email account and Network Solutions registrar account.

1 31. Upon gaining access to Plaintiff's email account and Network Solutions registrar
2 account, Defendant, without authorization, transferred the Domain Names from Network
3 Solutions to Defendant's personal eNom account.

4 32. Defendant, without authorization, also changed the email address listed as the registrant
5 of the Domain Names to an email address associated with the privacy protection service
6 used to hide his personal information.

7 33. By transferring the Domain Names to eNom and changing the email associated with the
8 domain registrant for the Domain Names, Defendant wrongfully obtained dominion and
9 control over Plaintiff's Domain Names.

10 34. The Domain Names constitute Plaintiff's personal property.

11 35. Plaintiff has an immediate right to possession of the Domain Names as the lawful owner
12 of the Domain Names and their respective registrations.

13 36. Defendant has committed the tort of conversion.

16 **COUNT III – INTENTIONAL INTERFERENCE WITH CONTRACTUAL RIGHTS**

17 37. Plaintiff restates all prior paragraphs as if fully restated herein.

18 38. Plaintiff possessed a valid contractual relationship with Network Solutions for the
19 Domain Names' registrations.

20 39. Plaintiff paid Network Solutions valuable consideration for the rights associated with the
21 Domain Names' registrations.

22 40. Defendant had express knowledge of Plaintiff's contractual rights with Network
23 Solutions because Defendant obtained unauthorized access in and to Plaintiff's Network
24 Solutions registrar account.

25 41. Defendant intentionally interfered with Plaintiff's contractual right by transferring the
26

1 Domain Name to a different registrar, eNom, thus terminating Plaintiff's contractual
2 relationship with Network Solutions.

3 42. Plaintiff did not approve or authorize Defendant's action to transfer the Domain Names
4 to eNom.

5 43. Plaintiff has suffered damage in the loss of dominion and control of the Domain Names
6 and the contractual rights for which he paid valuable consideration as a result of
7 Defendant's improper actions.

8 **COUNT IV – DECLARATORY JUDGMENT**

9 44. Plaintiff restates all prior paragraphs as if fully restated herein.

10 45. An actual controversy exists between Plaintiff and Defendant as to whether Plaintiff is
11 the rightful owner of the Domain Names.

12 46. Defendant's express actions to obtain unauthorized access to Plaintiff's email account
13 and Network Solutions registrar account, and to transfer the Domain Name to eNom,
14 places the Domain Names solely under Defendant's dominion and control to the
15 exclusion of Plaintiff.

16 47. Plaintiff, Defendant, and the public will face uncertainty regarding the entity with proper
17 title and rights to the Domain Name, and this results in reasonable apprehension of
18 further litigation to clarify the rights at issue.

19 48. A justiciable controversy exists that Plaintiff seeks a declaration and judgment that he is
20 the rightful owner of the Domain Names.

21 **PRAYER FOR RELIEF**

22 Plaintiff respectfully requests this Honorable Court enter the judgment against Defendant:

23 A. Declaring Plaintiff the owner of the Domain Names;

- B. Transferring the Domain Names into Plaintiff's possession, ownership, and control;
- C. Awarding Plaintiff his actual damages, lost profits, consequential damages, exemplary damages, statutory damages, and any other damages allowable under law;
- D. Awarding Plaintiff his costs and attorneys' fees; and
- E. Awarding Plaintiff any other relief to which he is entitled.

Respectfully submitted,

Date: October 28, 2017

/s/ Nicholas Ranallo
Nicholas Ranallo
Washington Bar No. 51439
10411 Alderbrook Pl. NW
Seattle, WA 98177
nick@ranallolawoffice.com
(831) 607-9229

/s/ Eric Misterovich
Eric Misterovich (P73422)
Pro Hac Vice Application Forthcoming
Revision Legal, PLLC
8051 Moorsbridge Rd.
Portage, MI 49024
269.281.3908
269.235.9900 (f)
eric@revisionlegal.com